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CHARLOTTE, N.C.

AUG 10 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
Charlotte Division

ROBERT LOWINGER, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

EUGENE B. JOHNSON, DANIEL G.  
BERGSTEIN, KELSO INVESTMENT  
ASSOCIATES V, L.P., KELSO EQUITY  
PARTNERS V, L.P., FRANK K. BYNUM,  
JR., GEORGE E. MATELICH, KELSO &  
COMPANY and FAIRPOINT  
COMMUNICATIONS, INC.,

Defendants.

Case No. 3:05CV316-H

**PROPOSED PRELIMINARY**  
**SCHEDULING ORDER**

The Court hereby orders as follows:

(A) The Defendants shall have thirty days following the date of the Court's ruling on Plaintiff's Motion to Remand in which to answer or otherwise respond to Plaintiff's Complaint;

(B) If Defendants' first responsive pleading to Plaintiff's Complaint is a Motion to Dismiss, Plaintiff shall have thirty days following the date of Defendants' Motion to Dismiss in which to file a response to Defendant's Motion to Dismiss;

(C) The Defendants shall have fifteen days following the date of Plaintiff's response to Defendants' Motion to Dismiss in which to file a reply to Plaintiff's response; and

(D) The Plaintiff need not provide notice under the Private Securities Litigation Reform Act of 1995, 15 U.S.C. 77z-1(a)(3)(A)(i) to the proposed plaintiff class until after the Motion to Remand is decided.

This the 12<sup>th</sup> day of August, 2005.

Carl Horn, III

CARL HORN, III  
U.S. Magistrate Judge